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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,407	08/27/2001	Hideki Noma	450108-02924	4158

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NEW YORK, NY 10151

EXAMINER

THEIN, MARIA TERESA T

ART UNIT	PAPER NUMBER
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3627

MAIL DATE	DELIVERY MODE
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05/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/914,407

Applicant(s)

NOMA, HIDEKI

Examiner

Marissa Thein

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 09 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant's "Amendment Under 37 C.F.R. § 1.121" filed on March 9, 2007 has been considered.

Claims 1, 6, 11, 16, 21, 26, 31, 36, 41 and 46 are amended. Claims 1-50 remain pending in this application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,260,750 to Barad et al. in view of PCT World Publication No. WO 99/32203 to Schorr et al.

Regarding claims 1, 6, 11, 16, and 21, Barad discloses a system, method, device, and computer program for purchasing or receiving an order for a virtual creature (personalized toy) existing as a software and programmed to act or more, comprising: first communication means provided on the order sender side (accessing a computer in 110 is performed by customer 60) of the virtual creature (collecting orders, col. 5, lines 50-61, Figure 5); second communication means provided on the order receiving side of the virtual creature (processing ordering, col. 5, lines 50-51; col. 6, lines 52-61, Figure 5); a communication path to connect between the first and the second communication

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means (Figure 5; col. 5, lines 50-57; col. 6, lines 50-59); the second communication means comprising: question data transmission means for transmitting questions data regarding changeable items in the software (select attributes to change) of the virtual creature and/or hardware holding a recording medium in which the software is stored to the first communication means that accesses via the communication path (Figure 5, col. 5, line 66- col. 6, line 15; col. 6, lines 31-39); wherein said changeable items include internal conditions (Figure 1, "to select doll's personality"; Figure 23, "Step 8 Select Clara's personality"), which include an action configuration (the toy may be programmed to say amove in a particular way, col. 3, lines 63-65) and at least one of an emotional tendency (Figure 23, "caring for animals"); and data processing means for conducting the predetermined data processing in order to form the virtual creature and/or the hardware reflecting the order sender's answer to the question to be transmitted from the first communication means via the communication path (Figure 5, col. 6, lines 37-40).

However, Barad does not explicitly disclose the action program comprises an action model of a robot-type and a motion as a function of the emotional tendency or the instinct tendency; and the emotional tendency comprises an emotion model having a plurality of parameters storing strengths of each emotional tendency and the action configuration program comprises a probability automation to determine a next action. Barad does disclose the toy can be programmed to move in a particular way (col. 3, lines 55-63) and can select the toy's personality (Figure 1, "to select doll's personality"; Figure 23, "Step 8 Select Clara's personality") such as caring for animals (Figure 23,

“caring for animals”). Barad discloses a personalized toy which includes other types of components, such as electronic components housed within the toy and programming for such electronics, such as programmed to say a particular phrase or set of words or move in a particular manner (col. 3, lines 57-65).

Schorr, on the other hand, teaches the action program comprises an action model of a robot-type and a motion as a function of the emotional tendency or the instinct tendency (page 2, lines 5-9; page 12, lines 19-27; abstract); the emotional tendency comprises an emotion model having a plurality of parameters storing strengths of each emotional tendency (page 12, lines 6-8; page 12, lines 19-27; page 13, lines 9-29) and the action configuration program comprises a probability automation to determine a next action (page 16, line 17 – page 17, line 15).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system, method, device, and computer program of Barad, to include the action program comprises an action model of a robot-type and a motion as a function of the emotional tendency or the instinct tendency the emotional tendency comprises an emotion model having a plurality of parameters storing a strength of each emotional tendency and the action configuration program comprises a probability automation to determine a next action, as taught by Schorr, in order to provide interaction between the child and the figure (virtual creature) (Schorr, page 1, line 8), thus adapting to the child (user) and developing an individual “personality” and other characteristics (Schorr, page 2, lines 7-8).

The recitation “wherein said changeable items include internal conditions, which include an action configuration program and at least one of an emotion tendency or an instinct tendency” has been considered. It is noted such recitation is presented in alternative from as governed by the recitation “at least one of” and “or”. As the Examiner indicated, the combination of Barad and Schorr satisfies the limitation “at least one of” by providing “wherein said changeable items include internal conditions, which include an action configuration and at least one of an emotional tendency”.

Regarding claims 2-5, 7-10, 12-15, 17-20, 22-25, 27-30, 32-35, 37-40, 42-45, and 47-50, Barad discloses the changeable item is the specification on the action or motion (programmed to move in a particular manner) of the virtual creature and robotic device (col. 3, lines 63-67); changeable items are the design of the virtual creature or the hardware and robotic device (col. 5, lines 52-65, Figure 7, Figures 13-17; Figures 21-22); the data processing means analyzes the taste and/or the living environment of the order sender based on the order sender's answer to the question and conducts the data processing according to the analysis result (Figure 5, col. 6, lines 30-40; col. 6, lines 49-59); and the data processing means forms the image data of computer graphic image of the virtual creature and robotic device (representational image showing he personalized toy) and/or the hardware reflecting the order sender's answer to the question, and transmits the image data to the first communication means via the communication path (Figure 5; col. 6, lines 60-66)

Regarding claims 26, 31, 36, 41 and 46, Barad discloses a system, method, device, and computer program for purchasing or receiving an order of a robotic device

(personalized toy...may include other types of components, such as electronic components housed within the toy and programming for such electronics....toy may be programmed to move in a particular manner, col. 3, lines 57-67) to act or move based on the predetermined program, comprising: first communication means provided on the order sender side (accessing a computer in 110 is performed by customer 60) of the robotic device (collecting orders, col. 5, lines 50-61, Figure 5); second communication means provided on the order receiving side of the robotic device (processing ordering, col. 5, lines 50-51; col. 6, lines 52-61, Figure 5); a communication path for connecting the first and the second communication means (Figure 5; col. 5, lines 50-57; col. 6, lines 50-59); the second communication means comprising: question data transmission means for transmitting questions data on changeable items (select attributes to change) of the robotic device to the first communication means that accessed via the communication path (Figure 5, col. 5, line 66- col. 6, line 15; col. 6, lines 31-39); wherein said changeable items include internal conditions (Figure 1, "to select doll's personality"; Figure 23, "Step 8 Select Clara's personality"), which include an action configuration (the toy may be programmed to say amove in a particular way, col. 3, lines 63-65) and at least one of an emotional tendency (Figure 23, "caring for animals"); and data processing means for conducting the predetermined data processing to construct the robotic device by reflecting the order sender's answer to the question to be transmitted from the first communication means via the communication path (Figure 5, col. 6, lines 37-40).

However, Barad does not explicitly disclose, the action program comprises an action model of a robot-type and a motion as a function of the emotional tendency or the instinct tendency the emotional tendency comprises an emotion model having a plurality of parameters storing strengths of each emotional tendency and the action configuration program comprises a probability automation to determine a next action. Barad does disclose the toy can be programmed to move in a particular way (col. 3, lines 55-63) and can select the toy's personality (Figure 1, "to select doll's personality"; Figure 23, "Step 8 Select Clara's personality") such as caring for animals (Figure 23, "caring for animals"). Barad discloses a personalized toy which includes other types of components, such as electronic components housed within the toy and programming for such electronics, such as programmed to say a particular phrase or set of words or move in a particular manner (col. 3, lines 57-65).

Schorr, on the other hand, teaches the action program comprises an action model of a robot-type and a motion as a function of the emotional tendency or the instinct tendency (page 2, lines 5-9; page 12, lines 19-27; abstract); the emotional tendency comprises an emotion model having a plurality of parameters storing strengths of each emotional tendency (page 12, lines 6-8; page 12, lines 19-27; page 13, lines 9-29) and the action configuration program comprises a probability automation to determine a next action (page 16, line 17 – page 17, line 15).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system, method, device, and computer program of Barad, to include the action program comprises an action model of a robot-

type and a motion as a function of the emotional tendency or the instinct tendency the emotional tendency comprises an emotion model having a plurality of parameters storing a strength of each emotional tendency and the action configuration program comprises a probability automation to determine a next action, as taught by Schorr, in order to provide interaction between the child and the figure (virtual creature) (Schorr, page 1, line 8), thus adapting to the child (user) and developing an individual “personality” and other characteristics (Schorr, page 2, lines 7-8).

The recitation “wherein said changeable items include internal conditions, which include an action configuration program and at least one of an emotion tendency or an instinct tendency” has been considered. It is noted such recitation is presented in alternative from as governed by the recitation “at least one of” and “or”. As the Examiner indicated, the combination of Barad and Schorr satisfies the limitation “at least one of” by providing “wherein said changeable items include internal conditions, which include an action configuration and at least one of an emotional tendency”.

Response to Arguments

Applicant's arguments filed March 9, 2007 have been fully considered but they are not persuasive.

Applicant remarks that “Barad and Schorr fail to teach or suggest that said changeable itemsthat the action configuration program comprises an action model of a robot-type and a motion as a function of the emotional tendency or the instinct tendency”.

Examiner does not agree. Barad does disclose the toy can be programmed to move in a particular way (col. 3, lines 55-63) and can select the toy's personality (Figure 1, "to select doll's personality"; Figure 23, "Step 8 Select Clara's personality") such as caring for animals (Figure 23, "caring for animals"). Barad discloses a personalized toy which includes other types of components, such as electronic components housed within the toy and programming for such electronics, such as programmed to say a particular phrase or set of words or move in a particular manner (col. 3, lines 57-65). Schorr is cited for teaching the action configuration program comprises an action model of a robot-type and a motion as a function of the emotional tendency or the instinct tendency. Schorr teaches an interactive toy having adaptive personality and utilizing artificial intelligence which responds to the user. The toy is capable of initiating communication with the user, adapting to the user and developing individual "personality" through interaction with the user. (Abstract) Schorr further teaches examples of personality characteristics which include patience, tiredness, and amusement (page 12, lines 19-27). Examiner also notes that robot-type is defined as a mechanical device that sometimes resembles a human and is capable of performing a variety of often human tasks on command or by being programmed in advance; a machine or device that operates automatically or by remote control; and a person who works mechanically without original thought, especially one who responds automatically to commands of others. (www.yourdictionary.com)

Such an interactive toy having adaptive personality and utilizing artificial intelligence which responds to the user; toy is capable of initiating communication with

the user, adapting to the user and developing individual "personality" through interaction with the user; and personality characteristics which include patience, tiredness, and amusement are considered "the action configuration program comprises an action model of a robot-type and a motion as a function of the emotional tendency or the instinct tendency".

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

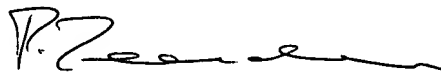
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 571-272-6764. The examiner can normally be reached on M-F 8:00-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mtot
May 28, 2007

 5/30/07
F. RYAN ZEENDER
SUPERVISORY PATENT EXAMINER